

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH A. SOMERS,

Plaintiff,

No. CIV S-05-0741 MCE EFB P

vs.

BPT COMMISSIONER M. PEREZ,
et al.,

Defendants.

ORDER

Plaintiff is a prisoner without counsel seeking relief for alleged civil rights violations. *See* 42 U.S.C. § 1983. On December 19, 2006, defendants filed a motion for summary judgment. *See* Fed. R. Civ. P. 56. By order filed March 14, 2007, the court relieved plaintiff of his obligation to file an opposition to that motion until such time as the court rules upon his motion for a preliminary injunction. On September 26, 2007, the court denied plaintiff's motion for a preliminary injunction. The court now directs plaintiff to file his opposition to defendants' motion for summary judgment.

In cases in which one party is incarcerated and proceeding without counsel, motions ordinarily are submitted on the record without oral argument. Local Rule 78-230(m).

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1 “Opposition, if any, to the granting of the motion shall be served and filed with the Clerk by the
2 responding party not more than eighteen (18) days, plus three (3) days for mailing or electronic
3 service, after the date of service of the motion.” *Ibid.* A responding party’s failure “to file
4 written opposition or to file a statement of no opposition may be deemed a waiver of any
5 opposition to the granting of the motion and may result in the imposition of sanctions.” *Ibid.*
6 Furthermore, a party’s failure to comply with any order or with the Local Rules “may be grounds
7 for imposition of any and all sanctions authorized by statute or Rule or within the inherent power
8 of the Court.” Local Rule 11-110. The court may recommend that an action be dismissed with
9 or without prejudice, as appropriate, if a party disobeys an order or the Local Rules. *See Ferdik*
10 *v. Bonzelet*, 963 F.2d 1258, 1252 (9th Cir. 1992) (district court did not abuse discretion in
11 dismissing *pro se* plaintiff’s complaint for failing to obey an order to re-file an amended
12 complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856 F.2d 1439,
13 1440-41 (9th Cir. 1988) (dismissal for *pro se* plaintiff’s failure to comply with local rule
14 regarding notice of change of address affirmed);

15 Accordingly, it is hereby ORDERED that, within 20 days of the date of this order,
16 plaintiff shall file either an opposition to the motion for summary judgment or a statement of no
17 opposition. Failure to comply with this order will result in a recommendation that this action be
18 dismissed without prejudice.

19 DATED: October 31, 2007.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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